

REMARKS

Claims 1-12 and 15-19 were examined by the Office, and in the Office Action of May 7, 2007 all claims are rejected. With this response claims 1, 12, 17 and 19 are amended, and claim 2 is cancelled. Claims 1, 12, 17 and 19 are amended to include limitations similar to those recited in claim 2, and therefore the amendments to the claims are fully supported by the specification as originally filed.

Applicant respectfully requests reconsideration and withdrawal of the rejections in view of the following discussion.

Claim Rejections Under § 103

In section 5, on page 3 of the Office Action claims 1-12 and 15-19 are rejected under 35 U.S.C. § 103(a) as anticipated by Salin et al. (U.S. Patent No. 6,370,390) in view of Rooke et al. (U.S. Appl. Publ. No. 2002/0044634). Applicant respectfully submit that the cited references, alone or in combination, fail to disclose or suggest independent claim 1. Claim 1 is amended to recite receiving a status change notification message from the presence service about the mobile terminal device having a change of availability information, and initiating a delivery attempt of the message in part when the change of availability information indicates that the mobile terminal device will accept the message. Applicant respectfully submits that the cited references, alone or in combination, at least fail to disclose or suggest these limitations recited in claim 1.

On page 4 of the Office Action the Office acknowledges that Salin fails to disclose that the message is forwarded when availability information indicates that the mobile station will accept the message. Applicant acknowledges that Salin is not related and does not discuss availability information as recited in claim 1. Salin does not disclose or suggest availability information of a mobile terminal that indicates whether the mobile terminal will accept the message or not. As seen from claim 1, the availability information may be information such as the type of message, size of the message, data content of the message, location of the mobile terminal device or willingness of a user of the mobile terminal device to receive the message. Instead, the Office relies upon Rooke for this teaching. However, claim 1 is amended to recite that the status change notification message is about a change of availability information, since Salin does not disclose or suggest availability information, as acknowledged by the Office, Salin also necessary fails to disclose or suggest a

change of availability information and receipt of a status change notification message, as recited in claim 1.

Furthermore, Rooke does not disclose or suggest receiving a status change notification, and then initiating a delivery attempt in part when the status change notification of the availability information indicates that the mobile terminal device will accept the message, as recited in claim 1. Instead, in Rooke the decision whether to store, forward or delete a message is based upon terminal capabilities and the current user profile stored in a multimedia messaging service center. See Rooke column 4, lines 31-34. In contrast to claim 1, initiation of the delivery attempt is not based on a status change notification, but instead delivery attempts only occur in Rooke when a message is sent. While the user profile can be updated, the updating of the user profile does not result in the delivery of a message that was previously chosen by the user to be rejected. See Rooke column 4, lines 39-42. Therefore, Rooke fails to make up for the deficiencies in the teachings of Salin, and for at least that reason, claim 1 is not disclosed or suggested by the cited references.

Independent claims 12, 17 and 19 contain limitations similar to those recited in independent claim 1, and are amended in a manner similar to claim 1. Therefore, for at least the reasons discussed above in relation to claim 1, claims 12, 17 and 19 are not disclosed or suggested by the cited references.

The dependent claims depending directly or indirectly from the above mentioned independent claim, and are not disclosed or suggested by the cited references at least in view of their dependencies. Therefore, applicant respectfully request withdrawal of the rejections to the dependent claims.

Conclusion

The rejections of the Office Action having been obviated by amendment or shown to be inapplicable, withdrawal thereof is requested, and passage to issue of the present application is earnestly solicited. The undersigned hereby authorizes the Commissioner to charge Deposit Account No. 23-0442 for any fee deficiency required to submit this response.

Respectfully submitted,

Date: 6 November 2001

Keith R. Obert
Keith R. Obert
Attorney for the Applicant
Registration No. 58,051

KRO/kas
WARE, FRESSOLA, VAN DER SLUYS
& ADOLPHSON LLP
755 Main Street, P.O. Box 224
Monroe, CT 06468
Telephone: (203) 261-1234
Facsimile: (203) 261-5676
USPTO Customer No. 004955